
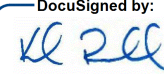




**STATE OF COLORADO CONTRACT  
NONGOVERNMENTAL LOAN CONTRACT  
COVER PAGE**

<b>State Agency</b> Department of Natural Resources Colorado Water Conservation Board (CWCB) 1313 Sherman St, Room 718 Denver, CO 80203	<b>Loan Contract Number</b> CMS 180907 CT2024-2004		
<b>Borrower's Name and Address</b> Ogilvy Augmentation Company	<b>Loan Contract Project Performance Beginning Date</b> The Loan Effective Date <b>Loan Contract Project Performance End Date</b> Three (3) years from the Project Performance Beginning Date or upon the Project Performance End Date stated within CWCB's "Notice of Project Substantial Completion."		
<b>Base Loan Amount (Amount in CORE)</b> \$1,129,000.00 <b>One Percent (1%) Loan Origination Fee</b> \$11,290.00 <b>Total Loan Amount (Includes One Percent (1%) Origination Fee)</b> \$1,140,290.00	<b>Loan Effective Date</b> The date the State Controller or an authorized delegate signs this Loan Contract  <b>Loan Contract Terms</b> 1.80% for 30 years		
<b>Project Name</b> Loloff Reservoir Acquisition	<b>Contract Authority</b> Authority to enter into this Contract exists in §37-60-119 (2), C.R.S., §37-60-120, C.R.S., and §37-60-121, C.R.S.		
<b>Contract Purpose</b> The purpose of this Loan is for project costs related to the Loloff Reservoir Acquisition which provides storage for supplemental augmentation water, particularly for drought years.			
<b>Appendices and Order of Precedence</b> The following Appendices are included with this Contract: <ol style="list-style-type: none"> <li>1. Appendix 1, Project Summary</li> <li>2. Appendix 2, Sample Option Letter</li> <li>3. Appendix 3, Promissory Note</li> <li>4. Appendix 4, Resolutions</li> <li>5. Appendix 5, Security Agreement</li> <li>6. Appendix 6, Deed of Trust</li> <li>7. Appendix 7, Stock Assignment</li> </ol> <p>In the event of a conflict or inconsistency between this Contract and any Appendices such conflict or inconsistency shall be resolved by reference to the documents in the following order of priority:</p> <ol style="list-style-type: none"> <li>1. Colorado Special Provisions in §26 of the main body of this Contract.</li> <li>2. The provisions of the other sections of the main body of this Contract.</li> <li>3. Appendix 3, Promissory Note</li> <li>4. Appendix 5, Security Agreement</li> <li>5. Appendix 6, Deed of Trust</li> <li>6. Appendix 7, Stock Assignment</li> <li>7. All other Appendices</li> </ol>			
<b>Principal Representatives</b> <table border="0" style="width: 100%;"> <tr> <td style="width: 50%;"> <b>For the State:</b>            Joshua Godwin            Colorado Water Conservation Board            1313 Sherman St., Room 718            Denver, CO 80203            joshua.godwin@gmail.com            303-866-3441 x3254         </td> <td style="width: 50%;"> <b>For Borrower:</b>            Scott Cockroft, President            Ogilvy Augmentation Company            8209 West 20<sup>th</sup> Street, Suite A            Greeley, CO 80634            srockroft@gmail.com            970-371-6616         </td> </tr> </table>		<b>For the State:</b> Joshua Godwin Colorado Water Conservation Board 1313 Sherman St., Room 718 Denver, CO 80203 joshua.godwin@gmail.com 303-866-3441 x3254	<b>For Borrower:</b> Scott Cockroft, President Ogilvy Augmentation Company 8209 West 20 <sup>th</sup> Street, Suite A Greeley, CO 80634 srockroft@gmail.com 970-371-6616
<b>For the State:</b> Joshua Godwin Colorado Water Conservation Board 1313 Sherman St., Room 718 Denver, CO 80203 joshua.godwin@gmail.com 303-866-3441 x3254	<b>For Borrower:</b> Scott Cockroft, President Ogilvy Augmentation Company 8209 West 20 <sup>th</sup> Street, Suite A Greeley, CO 80634 srockroft@gmail.com 970-371-6616		

**SIGNATURE PAGE****THE PARTIES HERETO HAVE EXECUTED THIS CONTRACT**

Each person signing this Contract represents and warrants that the signer is duly authorized to execute this Contract and to bind the Party authorizing such signature.

<p align="center"><b>BORROWER</b> Ogilvy Augmentation Company</p> <p>By: <u></u> (Signature)</p> <p>Name: <u>Scott R. Lockhart</u></p> <p>Title: <u>President</u></p> <p>Date: <u>9-14-2023</u></p>	<p align="center"><b>STATE OF COLORADO</b> Jared S. Polis, Governor Colorado Department of Natural Resources Dan Gibbs, Executive Director Colorado Water Conservation Board</p> <p>DocuSigned by: By: <u></u> 109C5E7A3A3F423... (Signature)</p> <p>Name: Kirk Russell, P.E., Section Chief</p> <p>Date: <u>October 3, 2023   9:56 AM MDT</u></p>
<p align="center"><b>ATTEST:</b></p> <p>By: <u></u> (Signature)</p> <p>Name: <u>Bradley A. Cockroft</u></p> <p>Title: <u>Vice President</u></p> <p>Date: <u>9-14-2023</u></p>	<p align="center"><b>LEGAL REVIEW</b> Phil Weiser, Attorney General</p> <p>By: <u>N/A</u> Assistant Attorney General</p> <p>Date: _____</p>
<p>In accordance with §24-30-202, C.R.S., this Contract is not valid until signed and dated below by the State Controller or an authorized delegate.</p> <p align="center"><b>STATE CONTROLLER</b> Robert Jaros, CPA, MBA, JD</p> <p>DocuSigned by: By: <u></u> 70E3DF1B09EE4E8... (Signature)</p> <p>Name: <u>Ion Cotsapas</u></p> <p>Title: <u>DNR Procurement Director</u></p> <p>Effective Date: <u>October 4, 2023   4:51 PM MDT</u></p>	

## TABLE OF CONTENTS

	COVER PAGE .....	1
	SIGNATURE PAGE .....	2
1.	PARTIES .....	3
2.	TERM AND EFFECTIVE DATE.....	3
3.	DEFINITIONS .....	5
4.	AMENDMENTS AND OPTION LETTERS.....	6
5.	CONTRACT AMENDMENT SERVICE FEES .....	7
6.	PROMISSORY NOTE PROVISIONS.....	7
7.	INTEREST PRIOR TO PROJECT COMPLETION.....	7
8.	RETURN OF UNUSED LOAN FUNDS .....	8
9.	BORROWER'S AUTHORITY TO CONTRACT .....	8
10.	ATTORNEY'S OPINION LETTER.....	8
11.	PLEDGE OF REVENUES .....	8
12.	PLEDGE OF PROPERTY .....	9
13.	RELEASE AFTER LOAN IS REPAYED .....	10
14.	WARRANTIES .....	10
15.	CHANGE OF OWNERSHIP OF WATER SHARES DURING TERM OF CONTRACT ...	10
16.	OPERATION OF PROJECT.....	10
17.	CONFIDENTIAL INFORMATION-STATE RECORDS.....	11
18.	CONFLICTS OF INTEREST.....	12
19.	INSURANCE .....	12
20.	BREACH OF CONTRACT .....	13
21.	REMEDIES .....	13
22.	DISPUTE RESOLUTION.....	14
23.	NOTICES AND REPRESENTATIVES .....	14
24.	STATEWIDE CONTRACT MANAGEMENT SYSTEM .....	15
25.	GENERAL PROVISIONS.....	15
26.	COLORADO SPECIAL PROVISIONS (COLORADO FISCAL RULE 3-1).....	18
	APPENDIX 1, PROJECT SUMMARY .....	1
	APPENDIX 2, SAMPLE OPTION LETTER .....	1
	APPENDIX 3, PROMISSORY NOTE .....	1
	APPENDIX 4, RESOLUTIONS .....	1
	APPENDIX 5, SECURITY AGREEMENT .....	1
	APPENDIX 6, DEED OF TRUST.....	1
	APPENDIX 7, STOCK ASSIGNMENT.....	1

### 1. PARTIES

This Contract is entered into by and between Borrower named on the Cover Page for this Contract (the "Borrower"), and the STATE OF COLORADO acting by and through the State agency named on the Cover Page for this Contract (the "State" or "CWCB"). Borrower and the State agree to the terms and conditions in this Contract.

### 2. TERM AND EFFECTIVE DATE

#### A. Loan Effective Date

The Loan Effective Date means the date on which this Contract is approved and signed by the Colorado State Controller or designee, as shown on the Signature Page for this Contract.

This Contract shall not be valid or enforceable until the Loan Effective Date. The State shall not be bound by any provision of this Contract before the Loan Effective Date, and shall have no obligation to pay the Borrower for any expense incurred before the Loan Effective Date or after the expiration or sooner termination of this Contract.

**B. Project Term**

The Parties' respective performances, of the Project, under this Contract shall commence on the Contract Project Performance Beginning Date shown on the Cover Page for this Contract and shall terminate on the Loan Contract Project Performance End Date shown on the Cover Page for this Contract unless sooner terminated or further extended in accordance with the terms of this Contract. **This Project Term does not include the full repayment period for the Loan or this Contract.**

**C. Loan Expiration Date**

The Loan Expiration Date is the date on which this Contract expires. The Loan Expiration Date is when the *full repayment period for the loan ends*.

**D. Project Extension Terms - State's Option**

The State, at its discretion, shall have the option to extend the Project Performance End Date under this Contract under the same terms specified in the Contract (each such period a "Project Extension Term"). In order to exercise this option, the Borrower shall provide written justification to CWCBC and CWCBC will provide written authorization for the Project Extension Term.

**E. Early Termination in the Public Interest**

The State is entering into this Contract to serve the public interest of the State of Colorado as determined by its Governor, General Assembly, or Courts. If this Contract ceases to further the public interest of the State, the State, in its discretion, may terminate this Contract in whole or in part. A determination that this Contract should be terminated in the public interest shall not be equivalent to a State right to terminate for convenience. This subsection shall not apply to a termination of this Contract by the State for breach by Borrower, which shall be governed by §20.

**i. Method and Content**

The State shall notify Borrower of such termination in accordance with §23. The notice shall specify the effective date of the termination and whether it affects all or a portion of this Contract, and shall include, to the extent practicable, the public interest justification for the termination.

**ii. Obligations and Rights**

Upon receipt of a termination notice for termination in the public interest, Borrower shall be subject to the rights and obligations set forth in §21.B.

**iii. Payments**

If the State terminates this Contract in the public interest, the State shall pay Borrower an amount equal to the percentage of the total reimbursement payable under this Contract that corresponds to the percentage of Work satisfactorily completed and accepted, as determined by the State, less payments previously made.

### 3. DEFINITIONS

The following terms shall be construed and interpreted as follows:

- A. **“Base Loan Amount”** means the amount disbursed to the Borrower, which does not include the one percent (1%) loan origination fee.
- B. **“Breach of Contract”** means the failure of a Party to perform any of its obligations in accordance with this Contract, in whole or in part or in a timely or satisfactory manner. The institution of proceedings under any bankruptcy, insolvency, reorganization or similar law, by or against Borrower, or the appointment of a receiver or similar officer for Borrower or any of its property, which is not vacated or fully stayed within 30 days after the institution of such proceeding, shall also constitute a breach. If Borrower is debarred or suspended under §24-109-105, C.R.S. at any time during the term of this Contract, then such debarment or suspension shall constitute a breach.
- C. **“Business Day”** means any day other than Saturday, Sunday, or a Legal Holiday as listed in §24-11-101(1), C.R.S.
- D. **“Collateral”** means property or other assets that the Borrower offers as security for the loan, also referred to as the “Pledged Property.”
- E. **“Contract”** means this Loan Contract or Loan, including all attached Appendices, all documents incorporated by reference, all referenced statutes, rules and cited authorities, and any future modifications thereto.
- F. **“Contract Funds”** means the funds that have been appropriated, designated, encumbered, or otherwise made available for payment by the State under this Contract.
- G. **“CORA”** means the Colorado Open Records Act, §§24-72-200.1, *et. seq.*, C.R.S.
- H. **“Incident”** means any accidental or deliberate event that results in or constitutes an imminent threat of the unauthorized access, loss, disclosure, modification, disruption, or destruction of any communications or information resources of the State, which are included as part of the Work, as described in §§24-37.5-401, *et. seq.*, C.R.S. Incidents include, without limitation, (i) successful attempts to gain unauthorized access to a State system or State Information regardless of where such information is located; (ii) unwanted disruption or denial of service; (iii) the unauthorized use of a State system for the processing or storage of data; or (iv) changes to State system hardware, firmware, or software characteristics without the State’s knowledge, instruction, or consent.
- I. **“Loan Effective Date”** means the date on which this Contract is approved and signed by the Colorado State Controller or designee, as shown on the Signature Page for this Contract.
- J. **“Loan Origination Fee”** means CWCB’s Origination Fee of one percent (1%), added to the Base Loan Amount in accordance with CWCB Policy No. 16, resulting in the Total Loan Amount shown on the Cover page of this Contract.
- K. **“Parity Indebtedness”** means any existing parity debt and additional indebtedness that may be secured in the future.
- L. **“Party”** means the State or Borrower, and “Parties” means both the State and Borrower.

- M. **"Pledged Property"** means the property pledged to secure repayment of this loan.
- N. **"Pledged Revenues"** means the revenues that consist solely of the Borrower's revenues pledged for repayment of this loan, as defined in the Resolution and set forth in the Security Agreement.
- O. **"Project Extension Terms-State Option"** means the time period defined in §2.D.
- P. **"Project Term"** means the time period defined in §2.B.
- Q. **"Promissory Note"** means the document issued to secure repayment of this loan.
- R. **"Resolution"** means the Borrower's written authority to enter into this Contract.
- S. **"Security Agreement"** means the document that provides a security interest in a specified revenue pledged to repay this loan.
- T. **"State Confidential Information"** means any and all State Records not subject to disclosure under CORA. State Confidential Information shall include, but is not limited to, PII, PHI, PCI, Tax Information, CJL, and State personnel records not subject to disclosure under CORA. State Confidential Information shall not include information or data concerning individuals that is not deemed confidential but nevertheless belongs to the State, which has been communicated, furnished, or disclosed by the State to Borrower which (i) is subject to disclosure pursuant to CORA; (ii) is already known to Borrower without restrictions at the time of its disclosure to Borrower; (iii) is or subsequently becomes publicly available without breach of any obligation owed by Borrower to the State; (iv) is disclosed to Borrower, without confidentiality obligations, by a third party who has the right to disclose such information; or (v) was independently developed without reliance on any State Confidential Information.
- U. **"State Fiscal Rules"** means that fiscal rules promulgated by the Colorado State Controller pursuant to §24-30-202(13) (a), C.R.S.
- V. **"State Fiscal Year"** means a 12 month period beginning on July 1 of each calendar year and ending on June 30 of the following calendar year. If a single calendar year follows the term, then it means the State Fiscal Year ending in that calendar year.
- W. **"State Records"** means any and all State data, information, and records, regardless of physical form, including, but not limited to, information subject to disclosure under CORA.
- X. **"Subcontractor"** means third-parties, if any, engaged by Borrower to aid in performance of the Work.
- Y. **"Total Loan Amount"** means the total of the Base Loan Amount plus the Origination fee of one percent (1%).

Any other term used in this Contract that is defined in an Exhibit shall be construed and interpreted as defined in that Exhibit.

#### 4. AMENDMENTS AND OPTION LETTERS

In the event that the Borrower does not use the full amount authorized, the Parties shall amend this Contract or the State may exercise an Option Letter (attached as Appendix 2) and incorporated herein, to decrease the Total Loan Amount including an adjustment of the Origination Fee to reflect 1% of the actual amount disbursed to the Borrower. An amendment to this Contract shall be executed for the following changes including, but not limited to, a change in pledged revenues or property, an increase in Total Loan Amount, and a decrease in Total Loan Amount with a change

in the annual loan payment. Additionally, upon substantial completion of the Project, the following applies:

- A. **Upon substantial completion of the Project** with a decrease in the Total Loan Amount and if the Borrower requests a change in the annual loan payment, the Parties may amend this Contract to modify the annual loan payment accordingly.
- B. **Upon substantial completion of the Project** with a decrease in the Total Loan Amount but no change in the annual payment, which then results in a shortened term of the Loan, the State may exercise an option and shall provide written notice to the Borrower in form substantially equivalent to Appendix 2 to decrease the term of the loan. If exercised, the provisions of the Option Letter and supporting documentation shall become part of and be incorporated into this Contract for the total duration of this Contract.

#### **5. CONTRACT AMENDMENT SERVICE FEES**

Under certain circumstances, the Borrower may be assessed a service fee for amending the Contract.

- A. A service fee may be imposed on the Borrower for amendments processed for the benefit of the Borrower and necessary for the Borrower's course of business but not necessary for the CWCB, including, but not limited to, a change in the Borrower's name, assignment of contract, substitution of Pledged Revenues or Pledged Property, loan payment deferments in excess of three (3) per loan, and loan consolidation. Amendments in the course of CWCB business will be processed at no additional charge to the Borrower.
- B. The amount charged shall be in accordance with the service fee rate structure set forth in the CWCB Loan Service Charge Policy in effect at the time the Borrower shall request an amendment. The current service fee for an amendment is one thousand and no/100 dollars (\$1,000).
- C. The Borrower shall remit the service fee to the CWCB prior to initiation of the amendment. Any service fee remitted to the CWCB cannot be refunded.

#### **6. PROMISSORY NOTE PROVISIONS**

The Promissory Note shall identify the Total Loan Amount. The CWCB agrees to loan to the Borrower an amount not to exceed the Total Loan Amount and the Borrower agrees to repay the loan in accordance with the terms as set forth in the Promissory Note, (attached as Appendix 3) and incorporated herein.

#### **7. INTEREST PRIOR TO PROJECT COMPLETION**

For all loan funds disbursed by the CWCB to the Borrower prior to the Contract Project Performance End Date, interest shall accrue on the disbursed funds at the rate set by the CWCB for this loan. The CWCB shall calculate the amount of the interest that accrued prior to the Project's substantial completion (as determined by the CWCB) and notify the Borrower of such amount. The Borrower shall repay that amount to the CWCB either (1) within thirty (30) days from the date of notification from the CWCB, (2) at the CWCB's discretion, said interest shall be deducted from

the final disbursement of loan funds that the CWCB makes to the Borrower, or (3) at the CWCB's discretion, said interest shall be rolled into the Total Loan Amount due.

#### **8. RETURN OF UNUSED LOAN FUNDS**

Any loan funds disbursed but not expended for the Project in accordance with the terms of this Contract shall be remitted to the CWCB within thirty (30) calendar days from notification from the CWCB of either (1) completion of the Project or (2) determination by the CWCB that the Project will not be completed. Any such loan funds so remitted to CWCB shall be applied to the principal payment of amounts due on the Loan.

#### **9. BORROWER'S AUTHORITY TO CONTRACT**

The Borrower warrants that it has full power and authority to enter into this Contract. The execution and delivery of this Contract and the performance and observation of its terms, conditions and obligations have been duly authorized by all necessary actions of the Borrower. The Borrower's Authorizing Resolution (attached as Appendix 4) includes the Resolutions of the Board of Directors.

#### **10. ATTORNEY'S OPINION LETTER**

Prior to the final execution of this Contract the Borrower shall submit to the CWCB a letter from its attorney stating that it is the attorney's opinion that:

- A. The Contract has been duly executed by officers of the Borrower who are duly elected or appointed and are authorized to execute the Contract and to bind the Borrower; and
- B. The resolutions of the Borrower authorizing the execution and delivery of the Contract were duly adopted by the Borrower's board of directors; and
- C. There are no provisions in the Borrower's articles of incorporation or bylaws or any state or local law that prevent this Contract from binding the Borrower; and
- D. The Contract will be valid and binding against the Borrower if fully executed.

#### **11. PLEDGE OF REVENUES**

The Borrower irrevocably (but not exclusively) pledges to the CWCB, for the purpose of repaying the Total Loan Amount, the Pledged Revenues, in such amount as is necessary to make each annual payment due under this Contract. Such pledge of the Pledged Revenues is on parity with the debt identified in Section 5 of Appendix 1 (Schedule of Existing Debt) and any additional indebtedness that may be secured by the Pledged Revenues in the future that is incurred in accordance with Section 11.E., hereof, and together with the Existing Parity Debt, shall be the Borrower's "Parity Indebtedness."

- A. **Segregation of Pledged Revenues.** The Pledged Revenues shall be accounted for and maintained in an account separate from other Borrower revenues at all times. The Pledged Revenues shall be used first to pay debt service on the Total Loan Amount and all other Parity Indebtedness on an equal basis and thereafter may be used for any and all other expenses.
- B. **Establish Security Interest.** The Borrower has duly executed a Security Agreement, (attached as Appendix 5) and incorporated herein, to provide a security interest to the CWCB in the Pledged Revenues. The lien of this Contract on the Pledged Revenues shall have priority over all other competing claims with respect to the Pledged Revenues, except for the parity lien on the Pledged Revenues of any Parity Indebtedness.



- C. **Debt Service Reserve Account or Fund.** To establish and maintain the debt service reserve account or fund, the Borrower shall deposit an amount equal to one-tenth (0.1) of an annual payment into its debt service reserve account or fund on the due date of its first annual loan payment and annually thereafter for the first ten years of repayment of this loan. In the event that the Borrower applies funds from this account to repayment of the loan, the Borrower shall replenish the account within ninety (90) days of withdrawal of the funds. The debt service reserve account or fund requirement is in effect until the loan is paid in full.
- D. **Additional Debts or Bonds.** The Borrower shall not issue any indebtedness payable from the Pledged Revenues or have a lien thereon which is superior to the lien of this loan. The Borrower may issue parity debt only with the prior written approval of the CWCB, provided that:
- i. The Borrower is currently and at the time of the issuance of the parity debt in substantial compliance with all of the obligations of this Contract, including, but not limited to, being current on the annual payments due under this Contract and in the accumulation of all amounts then required to be accumulated in the Borrower's debt service reserve fund;
  - ii. The Borrower provides to the CWCB a Parity Certificate from an independent certified public accountant certifying that, based on an analysis of the Borrower's revenues, for twelve (12) consecutive months out of the eighteen (18) months immediately preceding the date of issuance of such parity debt, the Borrower's revenues are sufficient to pay its annual operating and maintenance expenses, annual debt service on all outstanding indebtedness having a lien on the pledged revenues, including this loan, the annual debt service on the proposed indebtedness to be issued, and all required deposits to any reserve funds required by this Contract or by the lender(s) of any indebtedness having a lien on the pledged revenues. The analysis of revenues shall be based on the Borrower's current rate structure or the rate structure most recently adopted. No more than ten percent (10%) of total revenues may originate from tap and/or connection fees;
  - iii. The Borrower acknowledges and understands that any request for approval of the issuance of additional debt must be reviewed and approved by the CWCB prior to the issuance of any additional debt.
- E. **Pledged Revenues During Loan Repayment.** The Borrower shall not sell, convey, assign, grant, transfer, mortgage, pledge, encumber, or otherwise dispose of the Pledged Revenues, so long as any of the principal, accrued interest, and late charges, if any, on this loan remain unpaid, without the prior written concurrence of the CWCB.

## **12. RELEASE AFTER LOAN IS REPAYED**

Upon complete repayment to the CWCB of the entire principal, all accrued interest, and late charges, if any, as specified in the Promissory Note, the CWCB agrees to release and terminate

any and all of the CWCB's right, title, and interest in and to the Pledged Revenues and the Pledged Property.

### **13. WARRANTIES**

- A. The Borrower warrants that, by acceptance of the loan under this Contract and by its representations herein, the Borrower shall be estopped from asserting for any reason that it is not authorized or obligated to repay the loan to the CWCB as required by this Contract.
- B. The Borrower warrants that it has not employed or retained any company or person, other than a bona fide employee working solely for the Borrower, to solicit or secure this Contract and has not paid or agreed to pay any person, company, corporation, individual, or firm, other than a bona fide employee, any fee, commission, percentage, gift, or other consideration contingent upon or resulting from the award or the making of this Contract.
- C. The Borrower warrants that the Pledged Revenues and Pledged Property for this loan are not encumbered by any other deeds of trust or liens of any party other than the CWCB or in any other manner, except for the Existing Parity Loans which sets forth the position of the lien created by this Contract in relation to any existing lien(s). Documentation establishing the relative priorities of said liens, if necessary, is attached to the Project Summary and incorporated herein.

### **14. CHANGE OF OWNERSHIP OF WATER SHARES DURING TERM OF CONTRACT**

If the interest rate for this loan is based on the CWCB's agricultural or blended agricultural and municipal and/or commercial and/or industrial rates, the Borrower agrees to notify the CWCB of any change of the ownership of the water rights represented by its shares from irrigation to municipal or commercial or industrial use. The interest rate shall be revised when said change in ownership would increase the original interest rate by one-half percent (0.5%) or more. The parties shall amend this Contract including a revised Promissory Note, to effect said change in interest rate.

### **15. OPERATION OF PROJECT**

The Borrower shall, without expense or legal liability to the CWCB, manage, operate, and maintain the Project continuously in an efficient and economical manner.

### **16. CONFIDENTIAL INFORMATION-STATE RECORDS**

#### **A. Confidentiality**

Borrower shall keep confidential, and cause all Subcontractors to keep confidential, all State Records, unless those State Records are publicly available. Borrower shall not, without prior written approval of the State, use, publish, copy, disclose to any third party, or permit the use by any third party of any State Records, except as otherwise stated in this Contract, permitted by law or approved in Writing by the State. Borrower shall provide for the security of all State Confidential Information in accordance with all policies promulgated by the Colorado Office of Information Security and all applicable laws, rules, policies, publications, and guidelines. Borrower shall immediately forward any request or demand for State Records to the State's principal representative.

#### **B. Other Entity Access and Nondisclosure Agreements**

Borrower may provide State Records to its agents, employees, assigns and Subcontractors as necessary to perform the Work, but shall restrict access to State Confidential Information to those agents, employees, assigns and Subcontractors who require access to perform their obligations under this Contract. Borrower shall ensure all such agents, employees, assigns, and Subcontractors sign agreements containing nondisclosure provisions at least as protective as those in this Contract, and that the nondisclosure provisions are in force at all times the agent, employee, assign or Subcontractor has access to any State Confidential Information. Borrower shall provide copies of those signed nondisclosure provisions to the State upon execution of the nondisclosure provisions.

**C. Use, Security, and Retention**

Borrower shall use, hold and maintain State Confidential Information in compliance with any and all applicable laws and regulations in facilities located within the United States, and shall maintain a secure environment that ensures confidentiality of all State Confidential Information wherever located. Borrower shall provide the State with access, subject to Borrower's reasonable security requirements, for purposes of inspecting and monitoring access and use of State Confidential Information and evaluating security control effectiveness. Upon the expiration or termination of this Contract, Borrower shall return State Records provided to Borrower or destroy such State Records and certify to the State that it has done so, as directed by the State. If Borrower is prevented by law or regulation from returning or destroying State Confidential Information, Borrower warrants it will guarantee the confidentiality of, and cease to use, such State Confidential Information.

**D. Incident Notice and Remediation**

If Borrower becomes aware of any Incident, it shall notify the State immediately and cooperate with the State regarding recovery, remediation, and the necessity to involve law enforcement, as determined by the State. Unless Borrower can establish that none of Borrower or any of its agents, employees, assigns or Subcontractors are the cause or source of the Incident, Borrower shall be responsible for the cost of notifying each person who may have been impacted by the Incident. After an Incident, Borrower shall take steps to reduce the risk of incurring a similar type of Incident in the future as directed by the State, which may include, but is not limited to, developing and implementing a remediation plan that is approved by the State at no additional cost to the State.

**E. Data Protection and Handling**

Borrower shall ensure that all State Records and Work Product in the possession of Borrower or any Subcontractors are protected and handled in accordance with the requirements of this Contract, including the requirements of any Exhibits hereto, at all times.

**17. CONFLICTS OF INTEREST**

**A. Actual Conflicts of Interest**

Borrower shall not engage in any business or activities, or maintain any relationships that conflict in any way with the full performance of the obligations of Borrower under this Contract. Such a conflict of interest would arise when a Borrower's employee, officer or agent were to offer or provide any tangible personal benefit to an employee of the State, or any member of his or her immediate family or his or her partner, related to the award of, entry into or management or oversight of this Contract.

**B. Apparent Conflicts of Interest**

Borrower acknowledges that, with respect to this Contract, even the appearance of a conflict of interest shall be harmful to the State's interests. Absent the State's prior written approval, Borrower shall refrain from any practices, activities or relationships that reasonably appear to be in conflict with the full performance of Borrower's obligations under this Contract.

**C. Disclosure to the State**

If a conflict or the appearance of a conflict arises, or if Borrower is uncertain whether a conflict or the appearance of a conflict has arisen, Borrower shall submit to the State a disclosure statement setting forth the relevant details for the State's consideration. Failure to promptly submit a disclosure statement or to follow the State's direction in regard to the actual or apparent conflict constitutes a breach of this Contract.

**18. INSURANCE**

Borrower shall obtain and maintain insurance as specified in this section at all times during the term of this Contract. All insurance policies required by this Contract shall be issued by insurance companies as approved by the State.

**A. General Liability**

Commercial general liability insurance covering premises operations, fire damage, independent contractors, products and completed operations, blanket contractual liability, personal injury, and advertising liability with minimum limits as follows:

- i. \$1,000,000 each occurrence;
- ii. \$1,000,000 general aggregate;
- iii. \$1,000,000 products and completed operations aggregate; and
- iv. \$50,000 any one (1) fire.

**B. Cancellation**

The above insurance policies shall include provisions preventing cancellation or non-renewal, except for cancellation based on non-payment of premiums, without at least 30 days prior notice to Borrower and Borrower shall forward such notice to the State in accordance with §23., within seven (7) days of Borrower's receipt of such notice.

**C. Public Entities**

If Borrower is a "public entity" within the meaning of the Colorado Governmental Immunity Act, §24-10-101, *et seq.*, C.R.S. (the "GIA"), Borrower shall maintain, in lieu of the liability insurance requirements stated above, at all times during the term of this Contract such liability

insurance, by commercial policy or self-insurance, as is necessary to meet its liabilities under the GIA. Certificates

Borrower shall provide to the State certificates evidencing Borrower's insurance coverage required in this Contract within seven (7) Business Days following the Effective Date. No later than fifteen (15) days before the expiration date of Borrower's coverage, Borrower shall deliver to the State certificates of insurance evidencing renewals of coverage. At any other time during the term of this Contract, upon request by the State, Borrower shall, within seven (7) Business Days following the request by the State, supply to the State evidence satisfactory to the State of compliance with the provisions of this section.

## **19. BREACH OF CONTRACT**

In the event of a Breach of Contract, the aggrieved Party shall give written notice of breach to the other Party. If the notified Party does not cure the Breach of Contract, at its sole expense, within thirty (30) days after the delivery of written notice, the Party may exercise any of the remedies as described in §21 for that Party. Notwithstanding any provision of this Contract to the contrary, the State, in its discretion, need not provide notice or a cure period and may immediately terminate this Contract in whole or in part or institute any other remedy in this Contract in order to protect the public interest of the State; or if Borrower is debarred or suspended under §24-109-105, C.R.S., the State, in its discretion, need not provide notice or cure period and may terminate this Contract in whole or in part or institute any other remedy in this Contract as of the date that the debarment or suspension takes effect.

## **20. REMEDIES**

### **A. State's Remedies**

#### **i. Loan Default Remedies**

Upon default in the payments to be made by the Borrower under this Contract, or default in the performance of any covenant or agreement contained herein, the CWCB, at its option, may do any of the following:

- a. Suspend this Contract and withhold further loan disbursements pending corrective action by the Borrower and if the Borrower does not cure the default as provided for below, permanently cease loan disbursements and deem the Project substantially complete.
- b. Declare the entire unpaid principal amount of the Promissory Note, accrued interest, and late charges, if any, then outstanding immediately due and payable.
- c. Exercise its rights under any appendices to this Contract, including, but not limited to, the Promissory Note, Security Agreement, and/or any instrument securing pledged revenues and property.
- d. Take any other action deemed appropriate by the CWCB.

The CWCB shall provide written notice to the Borrower of any such default and shall give the Borrower an opportunity to cure within sixty (60) days of receipt of such notice. All remedies described herein may be simultaneously or selectively and successively enforced. The CWCB may enforce the provisions of this Contract at its option without regard to prior waivers of previous defaults by the Borrower, through judicial proceedings to require specific performance of this Contract, or by such other proceedings in law or equity as may be deemed necessary by the CWCB to ensure compliance with provisions of this Contract and the laws and regulations under which this Contract is executed. The CWCB's exercise of any or all of the remedies described herein shall not relieve the Borrower of any of its duties and obligations under this Contract.

**B. Borrower's Remedies**

If the State is in breach of any provision of this Contract and does not cure such breach, Borrower, following the notice and cure period in §21.A.i.d, and the dispute resolution process in §22, shall have all remedies available at law and equity.

**21. DISPUTE RESOLUTION**

**A. Initial Resolution**

Except as herein specifically provided otherwise, disputes concerning the performance of this Contract, which cannot be resolved by the designated Contract representatives shall be referred in writing to the board for review, who will determine a resolution to the dispute.

**B. Resolution of Controversies, Not Involving Loan Default**

If the initial resolution described in §22.A fails to resolve the dispute within ten (10) Business Days, Borrower shall submit any alleged breach of this Contract by the State to the Procurement Official of the State Agency named on the Cover Page of this Contract as described in §24-102-202 (3), C.R.S. for resolution in accordance with the provisions of §§24-109-101.1 through 24-109-505, C.R.S., (the "Resolution Statutes"), except that if Borrower wishes to challenge any decision rendered by the Procurement Official, Borrower's challenge shall be an appeal to the executive director of the Department of Personnel and Administration, or their delegate, under the Resolution Statutes before Borrower pursues any further action as permitted by such statutes. Except as otherwise stated in this Section, all requirements of the Resolution Statutes shall apply including, without limitation, time limitations.

**22. NOTICES AND REPRESENTATIVES**

Each individual identified as a Principal Representative on the Cover Page for this Loan Contract shall be the principal representative of the designating Party. All notices required or permitted to be given under this Contract shall be in writing, and shall be delivered (A) by hand with receipt required, (B) by certified or registered mail to such Party's principal representative at the address set forth below or (C) as an email with read receipt requested to the principal representative at the email address, if any, set forth on the Cover Page for this Contract. If a Party delivers a notice to another through email and the email is undeliverable, then, unless the Party has been provided with an alternate email contact, the Party delivering the notice shall deliver the notice by hand with receipt required or by certified or registered mail to such Party's principal representative at the address set forth on the Cover Page for this Contract. Either Party may change its principal

representative or principal representative contact information, or may designate specific other individuals to receive certain types of notices in addition to or in lieu of a principal representative by notice submitted in accordance with this section without a formal amendment to this Contract. Unless otherwise provided in this Contract, notices shall be effective upon delivery of the written notice.

## **23. STATEWIDE CONTRACT MANAGEMENT SYSTEM**

If the maximum amount payable to Borrower under this Contract is \$100,000 or greater, either on the Effective Date or at any time thereafter, this section shall apply. Borrower agrees to be governed by and comply with the provisions of §§24-106-103, 24-102-206, 24-106-106, and 24-106-107, C.R.S. regarding the monitoring of vendor performance and the reporting of contract performance information in the State's contract management system ("Contract Management System" or "CMS"). Borrower's performance shall be subject to evaluation and review in accordance with the terms and conditions of this Contract, Colorado statutes governing CMS, and State Fiscal Rules and State Controller policies.

## **24. GENERAL PROVISIONS**

### **A. Assignment**

Borrower's rights and obligations under this Contract are personal and may not be transferred or assigned without the prior, written consent of the State. Any attempt at assignment or transfer without such consent shall be void. Any assignment or transfer of Borrower's rights and obligations approved by the State shall be subject to the provisions of this Contract.

### **B. Binding Effect**

Except as otherwise provided in §25.A, all provisions of this Contract, including the benefits and burdens, shall extend to and be binding upon the Parties' respective successors and assigns.

### **C. Authority**

Each Party represents and warrants to the other that the execution and delivery of this Contract and the performance of such Party's obligations have been duly authorized.

### **D. Captions and References**

The captions and headings in this Contract are for convenience of reference only, and shall not be used to interpret, define, or limit its provisions. All references in this Contract to sections (whether spelled out or using the § symbol), subsections, exhibits or other attachments, are references to sections, subsections, exhibits or other attachments contained herein or incorporated as a part hereof, unless otherwise noted.

### **E. Counterparts**

This Contract may be executed in multiple, identical, original counterparts, each of which shall be deemed to be an original, but all of which, taken together, shall constitute one and the same agreement.

F. Entire Understanding

This Contract represents the complete integration of all understandings between the Parties related to the Work, and all prior representations and understandings related to the Work, oral or written, are merged into this Contract. Prior or contemporaneous additions, deletions, or other changes to this Contract shall not have any force or effect whatsoever, unless embodied herein.

G. Digital Signatures

If any signatory signs this Loan Contract using a digital signature in accordance with the Colorado State Controller Contract, Grant and Purchase Order Policies regarding the use of digital signatures issued under the State Fiscal Rules, then any agreement or consent to use digital signatures within the electronic system through which that signatory signed shall be incorporated into this Contract by reference.

H. Modification

Except as otherwise provided in this Contract, any modification to this Contract shall only be effective if agreed to in a formal amendment to this Contract, properly executed and approved in accordance with applicable Colorado State law and State Fiscal Rules. Modifications permitted under this Contract, other than contract amendments, shall conform to the policies issued by the Colorado State Controller.

I. Statutes, Regulations, Fiscal Rules, and Other Authority.

Any reference in this Contract to a statute, regulation, State Fiscal Rule, fiscal policy or other authority shall be interpreted to refer to such authority then current, as may have been changed or amended since the Effective Date of this Contract.

J. External Terms and Conditions

Notwithstanding anything to the contrary herein, the State shall not be subject to any provision included in any terms, conditions, or agreements appearing on Borrower's website or any provision incorporated into any click-through or online agreements related to the Work unless that provision is specifically referenced in this Contract.

K. Severability

The invalidity or unenforceability of any provision of this Contract shall not affect the validity or enforceability of any other provision of this Contract, which shall remain in full force and effect, provided that the Parties can continue to perform their obligations under this Contract in accordance with the intent of this Contract.

L. Survival of Certain Contract Terms

Any provision of this Contract that imposes an obligation on a Party after termination or expiration of this Contract shall survive the termination or expiration of this Contract and shall be enforceable by the other Party.



M. Third Party Beneficiaries

Except for the Parties' respective successors and assigns described in §25.A, this Contract does not and is not intended to confer any rights or remedies upon any person or entity other than the Parties. Enforcement of this Contract and all rights and obligations hereunder are reserved solely to the Parties. Any services or benefits which third parties receive as a result of this Contract are incidental to this Contract, and do not create any rights for such third parties.

N. Waiver

A Party's failure or delay in exercising any right, power, or privilege under this Contract, whether explicit or by lack of enforcement, shall not operate as a waiver, nor shall any single or partial exercise of any right, power, or privilege preclude any other or further exercise of such right, power, or privilege.

O. CORA Disclosure

To the extent not prohibited by federal law, this Contract and the performance measures and standards required under §24-106-107, C.R.S., if any, are subject to public release through the CORA.

P. Standard and Manner of Performance

Borrower shall perform its obligations under this Contract in accordance with the highest standards of care, skill and diligence in Borrower's industry, trade, or profession.

Q. Licenses, Permits, and Other Authorizations.

Borrower shall secure, prior to the Effective Date, and maintain at all times during the term of this Contract, at its sole expense, all licenses, certifications, permits, and other authorizations required to perform its obligations under this Contract, and shall ensure that all employees, agents and Subcontractors secure and maintain at all times during the term of their employment, agency or subcontract, all license, certifications, permits and other authorizations required to perform their obligations in relation to this Contract.

R. Indemnification

i. General Indemnification

Borrower shall indemnify, save, and hold harmless the State, its employees, agents and assignees (the "Indemnified Parties"), against any and all costs, expenses, claims, damages, liabilities, court awards and other amounts (including attorneys' fees and related costs) incurred by any of the Indemnified Parties in relation to any act or omission by Borrower, or its employees, agents, Subcontractors, or assignees in connection with this Contract.

ii. Confidential Information Indemnification

Disclosure or use of State Confidential Information by Borrower in violation of §17 may be cause for legal action by third parties against Borrower, the State, or their respective agents. Borrower shall indemnify, save, and hold harmless the Indemnified Parties, against any and all claims, damages, liabilities, losses, costs, expenses (including attorneys' fees and costs) incurred by the State in relation to any act or omission by Borrower, or its employees, agents, assigns, or Subcontractors in violation of §17.

iii. Intellectual Property Indemnification

Borrower shall indemnify, save, and hold harmless the Indemnified Parties, against any and all costs, expenses, claims, damages, liabilities, and other amounts (including attorneys' fees and costs) incurred by the Indemnified Parties in relation to any claim that any Work infringes a patent, copyright, trademark, trade secret, or any other intellectual property right.

**25. COLORADO SPECIAL PROVISIONS (COLORADO FISCAL RULE 3-3)**

These Special Provisions apply to all contracts except where noted in italics.

**A. STATUTORY APPROVAL. §24-30-202(1), C.R.S.**

This Contract shall not be valid until it has been approved by the Colorado State Controller or designee. If this Contract is for a Major Information Technology Project, as defined in §24-37.5-102(2.6), then this Contract shall not be valid until it has been approved by the State's Chief Information Officer or designee.

**B. FUND AVAILABILITY. §24-30-202(5.5), C.R.S.**

Financial obligations of the State payable after the current State Fiscal Year are contingent upon funds for that purpose being appropriated, budgeted, and otherwise made available.

**C. GOVERNMENTAL IMMUNITY.**

Liability for claims for injuries to persons or property arising from the negligence of the State, its departments, boards, commissions committees, bureaus, offices, employees and officials shall be controlled and limited by the provisions of the Colorado Governmental Immunity Act, §24-10-101, et seq., C.R.S.; the Federal Tort Claims Act, 28 U.S.C. Pt. VI, Ch. 171 and 28 U.S.C. 1346(b), and the State's risk management statutes, §§24-30-1501, et seq. C.R.S. No term or condition of this Contract shall be construed or interpreted as a waiver, express or implied, of any of the immunities, rights, benefits, protections, or other provisions, contained in these statutes.

**D. INDEPENDENT CONTRACTOR.**

Contractor shall perform its duties hereunder as an independent contractor and not as an employee. Neither Contractor nor any agent or employee of Contractor shall be deemed to be an agent or employee of the State. Contractor shall not have authorization, express or implied, to bind the State to any agreement, liability or understanding, except as expressly set forth herein. **Contractor and its employees and agents are not entitled to unemployment insurance or workers compensation benefits through the State and the State shall not pay for or otherwise provide such coverage for Contractor or any of its agents or employees. Contractor shall pay when due all applicable employment taxes and income taxes and local head taxes incurred pursuant to this Contract. Contractor shall (i) provide and keep in force workers' compensation and unemployment compensation insurance in the amounts required by law, (ii) provide proof thereof when requested by the State, and (iii) be solely responsible for its acts and those of its employees and agents.**

**E. COMPLIANCE WITH LAW.**

Contractor shall comply with all applicable federal and State laws, rules, and regulations in effect or hereafter established, including, without limitation, laws applicable to discrimination and unfair employment practices.

**F. CHOICE OF LAW, JURISDICTION, AND VENUE.**

Colorado law, and rules and regulations issued pursuant thereto, shall be applied in the interpretation, execution, and enforcement of this Contract. Any provision included or incorporated herein by reference which conflicts with said laws, rules, and regulations shall be null and void. All suits or actions related to this Contract shall be filed and proceedings held in the State of Colorado and exclusive venue shall be in the City and County of Denver.

**G. PROHIBITED TERMS.**

Any term included in this Contract that requires the State to indemnify or hold Contractor harmless; requires the State to agree to binding arbitration; limits Contractor's liability for damages resulting from death, bodily injury, or damage to tangible property; or that conflicts with this provision in any way shall be void ab initio. Nothing in this Contract shall be construed as a waiver of any provision of §24-106-109 C.R.S..

**H. SOFTWARE PIRACY PROHIBITION.**

State or other public funds payable under this Contract shall not be used for the acquisition, operation, or maintenance of computer software in violation of federal copyright laws or applicable licensing restrictions. Contractor hereby certifies and warrants that, during the term of this Contract and any extensions, Contractor has and shall maintain in place appropriate systems and controls to prevent such improper use of public funds. If the State determines that Contractor is in violation of this provision, the State may exercise any remedy available at law or in equity or under this Contract, including, without limitation, immediate termination of this Contract and any remedy consistent with federal copyright laws or applicable licensing restrictions.

**I. EMPLOYEE FINANCIAL INTEREST/CONFLICT OF INTEREST. §§24-18-201 and 24-50-507, C.R.S.**

The signatories aver that to their knowledge, no employee of the State has any personal or beneficial interest whatsoever in the service or property described in this Contract. Contractor has no interest and shall not acquire any interest, direct or indirect, that would conflict in any manner or degree with the performance of Contractor's services and Contractor shall not employ any person having such known interests.

**J. VENDOR OFFSET AND ERRONEOUS PAYMENTS. §§24-30-202(1) and 24-30-202.4, C.R.S.**

*[Not applicable to intergovernmental agreements]* Subject to §24-30-202.4(3.5), C.R.S., the State Controller may withhold payment under the State's vendor offset intercept system for debts owed to State agencies for: (i) unpaid child support debts or child support arrearages; (ii) unpaid balances of tax, accrued interest, or other charges specified in §§39-21-101, *et seq.*, C.R.S.; (iii) unpaid loans due to the Student Loan Division of the Department of Higher Education; (iv) amounts required to be paid to the Unemployment Compensation Fund; and (v) other unpaid debts owing to the State as a result of final agency determination or judicial

action. The State may also recover, at the State's discretion, payments made to Contractor in error for any reason, including, but not limited to, overpayments or improper payments, and unexpended or excess funds received by Contractor by deduction from subsequent payments under this Contract, deduction from any payment due under any other contracts, grants or agreements between the State and Contractor, or by any other appropriate method for collecting debts owed to the State.

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## **APPENDIX 1, PROJECT SUMMARY**

### **Loan Contract Number CT2024-2004**

#### **Section 1 –Borrower’s Name**

Ogilvy Augmentation Company

#### **Section 2 – Project Description**

- A. Description of Project: The Borrower applied to the CWCB for a loan to be used for the Loloff Reservoir Acquisition located in Weld County, at a total estimated Project cost of \$5,645,000.00. The purpose of this Project is to provides storage for supplemental augmentation water, particularly for drought years.
- B. Description of Feasibility Study Doug Seely, P.E., with NOCO Engineering prepared the Loan Feasibility Study titled, “Feasibility Study of the Loloff Reservoir Acquisition” dated November 2022. The feasibility study was prepared in accordance with CWCB guidelines and includes an analysis of alternatives and estimated costs Based upon the feasibility report, the CWCB determined the Project to be technically and financially feasible.

#### **Section 3 – Contract Authority**

This loan is made pursuant to the provisions of §§39-29-109(1)(a)(I), 37-60-119 and 37-60-120, C.R.S., which authorize the CWCB to loan money for water projects from the CWCB Severance Tax Perpetual Base Fund for the benefit of the people of the state, provided that the Borrower assures repayment of that money.

Section 37-60-122(1)(b) C.R.S., authorizes the CWCB to make loans of up to \$10,000,000 from CWCB’s Severance Tax Perpetual Base Fund without prior approval from the General Assembly.

#### **Section 4 - CWCB Approval**

At its January 2023 meeting the CWCB approved a Project Loan to the Borrower, in an amount up to \$1,129,000.00 for Project Costs. CWCB’s Origination Fee of 1% in the amount of \$11,290.00, in accordance with CWCB Policy No. 16, added to the Base Loan Amount results in a Total Loan Amount of **\$1,140,290.00** at an interest rate of 1.80% per annum for a repayment term of thirty (30) years.

#### **Section 5 – Schedule of Existing Debt**

The Borrower received a \$523,584 CWCB loan in September of 2008 for the purchase of six shares of Greeley Irrigation Company (GIC) stock. OAC has \$389,972 in long-term debt remaining, is up-to-date on their payments, and is in good standing.

#### **Section 6 – Loan Security**

The security for this loan, as evidenced by the executed Security Agreement (Appendix 5) and incorporated herein, shall be: (i) an irrevocable (but not exclusive) pledge to the CWCB of the Pledged Revenues in such amount as is necessary to make each annual payment due under this Contract backed by an assessment covenant, (ii) and a 20% interest in the ownership and storage in Loloff Reservoir, the pipeline connecting the Loloff Reservoir to the Ogilvy Ditch, and a pipe discharge structure in the reservoir, and (iii) six shares of Greeley Irrigation Company stock. The certificates for the shares are issued in both the Borrower’s and CWCB’s names and are in the physical custody of the State Treasurer’s Office.

#### **Section 7 – Additional Conditions and Requirements**

None.

### **Section 8 – Loan Program Procedures for the Project**

- A. The Borrower shall pay all of the expenses related to the Project when such bills are due.
- B. The Borrower must submit a written appraisal for the Project.

### **Section 9 – Eligible Expenses**

The Borrower shall initiate disbursement requests by invoice to CWCB, in a form and manner approved by CWCB. The following items are eligible for loan disbursements:

- A. Engineering associated with the feasibility report prepared as a requirement for this loan.
- B. Preparing final designs and specifications for the Project.
- C. Preparing bid and construction contract documents.
- D. Preparing environmental assessment or environmental impact statements, and otherwise complying with the Federal National Environmental Policy Act.
- E. Complying with all federal, state, and local regulatory requirements, including the obtaining of all required permits.
- F. Fish and wildlife mitigation measures required by federal, state, or local laws and regulations.
- G. Actual construction as called for in the design documents and in change orders approved by the CWCB and the Borrower.
- H. Engineering services for construction management, including design and construction management for CWCB approved change orders.
- I. Interest prior to completion of the Project pursuant to Section 7., of the Contract.
- J. Legal services for reviewing engineering services contracts, reviewing this Contract, reviewing construction contract documents, and for complying with all federal, state, and local regulatory requirements.
- K. Project related expenses incurred prior to the Effective Date of this Contract in accordance with the approval of this loan.
- L. Costs associated with obtaining the appraisal for the Project.

### **Section 10 – Disbursement Schedule**

For Project expenses: The Borrower shall prepare a periodic progress report that sets forth a statement of the Project costs expended for that period and shall forward said statement to the CWCB. After receipt of the periodic progress report from the Borrower, and review and acceptance of the items therein as eligible expenses, as described above, the CWCB will pay to the Borrower the amount set forth in the report or such portion as has been approved by the CWCB. Such payment shall be made within thirty (30) days from the CWCB's approval of each progress report.

### **Section 11 – Time for Performance**

**Project To Begin:** Upon Effective Date of this Contract (the date this Contract is signed by the State Controller or his designee).

**Project To End:** Three (3) from the Effective Date of this Contract or based upon the date stated within the CWCB Notice of Project Substantial Completion.

**APPENDIX 2, SAMPLE OPTION LETTER  
(TO BE USED AT SUBSTANTIAL COMPLETION OF PROJECT)**

<b>State Agency</b> Department of Natural Resources Colorado Water Conservation Board (CWCB) 1313 Sherman St, Room 718 Denver, CO 80203	<b>Option Letter Number</b>
<b>Borrower</b> Insert Borrower's Full Legal Name	<b>Original Contract Number</b>
	<b>Option Contract Number</b>
	<b>Loan Contract Effective Date</b>
	<b>Loan Contract Expiration Date</b>

**1. OPTIONS:**

- a. Option to decrease total Loan Contract amount and revise Loan Contract expiration date upon CWCB *Notice of Project Substantial Completion*.

**2. REQUIRED PROVISIONS:**

- a. The amount of the current Loan Contract Amount is decreased by (\$ amount of change) from \$\_\_\_\_\_ to \$\_\_\_\_\_ in consideration of substantial completion of the Project. The Total Loan Amount is hereby modified accordingly.
- b. This change does not include a change to the annual payment and interest rate.
- c. This Option Letter and supporting documentation shall become part of and be incorporated into this Contract for the total duration of the Loan Contract.
- d. This Option Letter shall include the written *Notice of Project Substantial Completion*.
- e. The Contract Maximum Amount table on the Contract Cover Page is hereby deleted and replaced with the Current Contract Maximum Amount table shown above.

**3. OPTION EFFECTIVE DATE:**

- a. The effective date of this Option Letter is upon approval of the State Controller or an authorized delegate.

<p style="text-align: center;"><b>STATE OF COLORADO</b>          Jared S. Polis, Governor          Department of Natural Resources          Dan Gibbs, Executive Director          Colorado Water Conservation Board</p> <p>By: _____</p> <p>Name: _____</p> <p>Title: _____</p> <p>Date: _____</p>	<p style="text-align: center;">In accordance with §24-30-202, C.R.S., this Option is not valid until signed and dated below by the State Controller or an authorized delegate.</p> <p style="text-align: center;"><b>STATE CONTROLLER</b>  <b>Robert Jaros, CPA, MBA, JD</b></p> <p>By: _____</p> <p>Name: _____</p> <p>Title: _____</p> <p>Option Effective Date: _____</p>
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**APPENDIX 3, PROMISSORY NOTE**

Date: Sept. 14, 2023

Borrower: Ogilvy Augmentation Company

Total Loan Amount: \$1,140.290.00

Interest Rate: 1.80% per annum

Term of Repayment: 30 years

Loan Contract Number: CT2024-2004

Annual Loan Payment: \$49,524.43

Payment Initiation Date\*: (To be filled in at Substantial Completion of Project)

Maturity Date\*: (To be filled in at Substantial Completion of Project)

\* Payment Initiation Date and Maturity Date fields are filled in *after* the Project has been substantially completed.

1. For Value Received, the Borrower promises to pay the Colorado Water Conservation Board ("CWCB"), the Principal Amount plus Interest for the Term of Repayment, pursuant to the Contract and this Promissory Note.
2. Principal and interest shall be payable in annual equal payments as set forth in "Annual Loan Payment" above, with the first payment due and payable one year from the Payment Initiation Date (the date the CWCB determines that the Project is substantially complete), and annually thereafter. All principal, interest, and late charges, if any, then remaining unpaid shall be due and payable on or before the Maturity Date.
3. Payments shall be made to the Colorado Water Conservation Board at 1313 Sherman Street, Room 718, Denver, Colorado 80203.
4. The CWCB may impose a late charge in the amount of five percent (5%) of the annual payment if the CWCB does not receive the annual payment within sixty (60) calendar days of the due date. At the discretion of the CWCB, and if the Borrower requests in writing with sufficient justification, the late fee may be waived by the CWCB. CWCB will review the request from the Borrower, and may, in its sole discretion, choose to waive the late fee.
5. This Promissory Note may be prepaid in whole or in part at any time without premium or penalty. Any partial prepayment shall not postpone the due date of any subsequent payments or change the amount of such payments.
6. This Promissory Note is issued pursuant to the Contract between the CWCB and the Borrower. The Contract creates security interests in favor of the CWCB to secure the prompt payment of all amounts that may become due hereunder. Said security interests are evidenced by a Security Agreement ("Security Instrument") of even date and amount herewith and cover the Pledged Revenues and Pledged Property. The Contract and Security Instruments grant additional rights to the CWCB, including the right to accelerate the maturity of this Promissory Note in certain events.
7. If any annual payment is not paid when due or any default under the Contract or the Security Instruments securing this Promissory Note occurs, the CWCB may declare the entire outstanding principal balance of the Note, all accrued interest, and any outstanding late charges immediately due and payable, and the indebtedness



shall bear interest at the rate of seven percent (7%) per annum from the date of default. The CWCB shall give the Borrower written notice of any alleged default and an opportunity to cure within sixty (60) days of receipt of such notice before the Borrower shall be considered in default for purposes of this Promissory Note.

8. The Borrower hereby agrees that if this Note or interest thereon is not paid when due or if suit is brought, then it shall pay all reasonable costs of collection, including reasonable attorney fees. In the event of any bankruptcy or similar proceedings, costs of collection shall include all costs and attorney fees incurred in connection with such proceedings, including the fees of counsel for attendance at meetings of creditors' committees or other committees.
9. This Promissory Note is authorized pursuant to and in accordance with the Constitution of the State of Colorado and all other laws of the State thereunto enabling. Specifically, but not by way of limitation, the Contract and this Promissory Note are authorized pursuant to and under the authority of Title 31, Article 35; Title 37, Article 45.1; and Title 11, Article 57, Part 2, C.R.S., and in full conformity therewith. Pursuant to Section 11-57-210, C.R.S., and Section 31-35-413, C.R.S., this recital shall be conclusive evidence of the validity and the regularity of the issuance of this Promissory Note and the Promissory Note shall be incontestable for any cause whatsoever after its delivery for value.

Ogilvy Augmentation Company

By: Scott R. Lakoff  
Signature

Name: Scott R. Lakoff

Title: President

Date: 9-14-2023

Attest:

By: Bradley A. Cockcroft  
Signature

Name: Bradley A. Cockcroft

Title: Vice President

Date: 9-14-2023

## Appendix 4

### **Resolutions of the Board of Directors of the Ogilvy Augmentation Company**

The Board of Directors of Ogilvy Augmentation Company (Company or other entity), at a meeting held on September 14, 2023, in Greeley, Colorado, adopted the following resolution concerning a secured loan from the State of Colorado Water Conservation Board (CWCB), for the purpose set forth in CWCB Loan Contract No. CMS 180907, CT2023-2004, in an amount not to exceed \$1,140,290.00, which includes the CWCB Origination Fee of one percent (1%) of the Base Loan Amount.

At said meeting, the Board charged that these resolutions are irrevocable during the term of the loan and, pursuant to the Company's bylaws, authorized the President and Corporate Secretary, **RESOLVED** as follows.

1. to enter into and comply with the terms of a contract with the Colorado Water Conservation Board for a loan in an amount not to exceed \$1,140,290.00, as needed to finance the project costs, including the CWCB Origination Fee of one percent (1%), and
2. to levy and collect assessments from the shareholders in an amount sufficient to pay the annual amounts due under the Contract, and to pledge assessment revenues and the Company's right to receive said revenues for repayment of the loan, and
3. to make the annual payments required by the Promissory Note and to make annual deposits to a debt service reserve fund, and
4. to make (i) an irrevocable (but not exclusive) pledge to the CWCB of the pledged revenues in such amount as is necessary to make each annual payment due under this Loan Contract; (ii) an assessment covenant, (iii) and a 20% of ownership and storage in Loloff Reservoir, pipeline connecting the Loloff Reservoir to the Ogilvy Ditch, a pipe discharge structure in the reservoir, and (iiii) six shares of Greeley Irrigation Company stock, and
5. to execute all documents as required by the Contract, including, but not limited to, a Promissory Note, and Security Agreement necessary to convey a security interest in said property to the CWCB, and
6. to take such other actions and to execute such other documents as may be necessary to consummate and implement the loan.

### **CERTIFICATION**

The undersigned, the President and the Corporate Secretary hereby certify that the foregoing are true and correct copies of resolutions duly adopted at a meeting of the Company's Board of Directors duly called and held as above recited, pursuant to the Company's bylaws, and that said resolutions have not been amended or rescinded.

Given under our hands and the seal of the Company this 14th day of September 2023.

By: Scott R. Cockroft  
Signature

Name: Scott R. Cockroft

Title: President

Date: 9-14-2023

ATTEST:

By: Vinica Davidson  
Signature

Name: Vinica Davidson

Title: Secretary

Date: 9-14-2023

## APPENDIX 5, SECURITY AGREEMENT

Date: Sept. 14, 2023

Borrower: Ogilvy Augmentation Company

Secured Party: Colorado Water Conservation Board

Promissory Note: \$1,140,290.00

Terms of Repayment: 1.80% per annum interest for 30 years

Loan Contract Number: CT2024-2004

Pledged Revenues: All revenues derived from assessment revenues and all of Borrower's right to receive said revenues to repay the loan as described in Pledged Revenues provisions of the Contract and Borrower's Resolutions adopted ~~Sept-20, 2020~~ September 14, 2023.

To secure payment of the loan evidenced by the Promissory Note payable in accordance with the terms of repayment, or until all principal, interest, and late charges, if any, are paid in full, the Borrower grants to Secured Party a security interest in the above described Pledged Revenues.

### BORROWER EXPRESSLY WARRANTS AND COVENANTS:

1. That except for the security interest granted hereby and any other security interests described in Appendix 1, Project Summary, Section 5, the Borrower is the owner of the Pledged Revenues free from any adverse lien, security interest or encumbrances; and that the Borrower will defend the Pledged Revenues against all claims and demands of all persons at any time claiming the same or any interest therein.
2. That the execution and delivery of this agreement by the Borrower will not violate any law or agreement governing the Borrower or to which the Borrower is a party.
3. Except in accordance with Section 11.E., of the Loan Contract, to not permit or allow any adverse lien, security interest or encumbrance whatsoever upon the Pledged Revenues and not to permit the same to be attached or replevined.
4. That by its acceptance of the loan money pursuant to the terms of the Loan Contract and by its representations herein, the Borrower shall be estopped from asserting for any reason that it is not authorized to grant a security interest in the Pledged Revenues pursuant to the terms of this agreement.
5. To pay all taxes and assessments of every nature that may be levied or assessed against the Pledged Revenues.
6. That the Borrower's articles of incorporation and by-laws do not prohibit any term or condition of this agreement.

UNTIL DEFAULT Borrower may have possession of the Pledged Revenues, provided that Borrower keeps the Pledged Revenues in an account separate from other revenues of Borrower and does not use Pledged Revenues for any purpose not permitted by the Contract. Upon default, Secured Party shall have the immediate right to the possession of the Pledged Revenues.

BORROWER SHALL BE IN DEFAULT under this agreement upon any of the following events or conditions:

- a. default in the payment or performance of any obligation contained herein or in the Promissory Note or Loan Contract; or
- b. dissolution, termination of existence, insolvency, business failure, appointment of a receiver of any part of the property of, assignment for the benefit of creditors by, or the commencement of any proceeding under any bankruptcy or insolvency law of, by or against the Borrower; or

- c. the making or furnishing of any warranty, representation or statement to Secured Party by or on behalf of the Borrower which proves to have been false in any material respect when made or furnished.

Upon such default and at any time thereafter, Secured Party shall have the remedies of a secured party under Article 9 of the Colorado Uniform Commercial Code. Secured Party may require the Borrower to deliver or make the Pledged Revenues available to Secured Party at a place to be designated by Secured Party, which is reasonably convenient to both parties. Expenses of retaking, holding, preparing for sale, selling or the like shall include Secured Party's reasonable attorney's fees and legal expenses.

The Secured Party shall give the Borrower written notice of any alleged default and an opportunity to cure within sixty (60) business days of receipt of such notice before the Borrower shall be considered in default for purposes of this Security Agreement. No default shall be waived by Secured Party except in writing, and no waiver by Secured Party of any default shall operate as a waiver of any other default or of the same default on a future occasion. The taking of this Security Agreement shall not waive or impair any other security Secured Party may have or hereafter acquire for the payment of the above indebtedness, nor shall the taking of any such additional security waive or impair this Security Agreement; but Secured Party shall retain its rights of set-off against the Borrower. In the event court action is deemed necessary to enforce the terms and conditions set forth herein, said action shall only be brought in the District Court for the City and County of Denver, State of Colorado, and the Borrower consents to venue and personal jurisdiction in said Court.

All rights of Secured Party hereunder shall inure to the benefit of its successors and assigns; and all promises and duties of the Borrower shall bind its successors or assigns.

Ogilvy Augmentation Company

By: Scott R. Lockhart  
Signature

Attest:

Name: Scott R. Lockhart

Title: President

Date: 9-14-2023

By: Bradley A. Crockett  
Signature

Name: Bradley A. Crockett

Title: Vice President

Date: 9-14-2023

## APPENDIX 6, DEED OF TRUST

Date: Sept. 14, 2023  
Grantor: Ogilvy Augmentation Company  
Beneficiary: Colorado Water Conservation Board  
County: Weld  
Total Loan Amount: \$1,140,290.00  
Loan Contract Number: CT2024-2004  
Terms of Repayment: 1.80% per annum interest for 30 years  
Pledged Property: An undivided twenty percent (20%) interest in the ownership and storage in Loloff Reservoir, the pipeline connecting the Loloff Reservoir to the Ogilvy Ditch, and a pipe discharge structure in the reservoir located in the E 1/2 of the NW 1/4 of Section 4, Township 5 North, Range 65 West of the 6th P.M., Weld County, including any easements, rights-of-ways or other property or property interests held and used in connection with the access and operation of said Reservoir.

And

An undivided one-hundred percent (100%) interest in Water Rights consisting of 6 shares of Greeley Irrigation Company, Stock Certificate Number(s) #3379, #3380, #3381, #3382, per this Loan Contract, the attached Appendices and the Grantor's Resolution. The certificates for the shares are issued in both the Borrower's and CWCB's names and are in the physical custody of the State Treasurer's Office.

This indenture is between the Grantor, and the Public Trustee of the above referenced County, State of Colorado ("Public Trustee").

### FACTUAL RECITALS

1. The Grantor has executed a Promissory Note of even date and amount, set forth in the Loan Contract, for a loan in the Total Loan Amount to be repaid to the Beneficiary, with Terms of Repayment and in accordance with the Promissory Note or until loan is paid in full.
2. The Grantor is desirous of securing payment of the Total Loan Amount and interest of said Promissory Note to the Beneficiary.

The Grantor, in consideration of the premises and for the purpose aforesaid, does hereby grant, bargain, sell and convey unto the said Public Trustee in trust forever, the above described Pledged Property.

To have and to hold the same, together with all appurtenances, in trust nevertheless, that in case of default in the payment of said Promissory Note, or any part thereof, or the interest thereon, or in the performance of any covenants hereinafter set forth or in said Promissory Note or Loan Contract, then upon the Beneficiary filing notice of election and demand for sale, said Public Trustee, after advertising notice of said sale weekly for not less than four weeks in some newspaper of general circulation in said County, shall sell said Pledged Property in the manner provided by law in effect at the time of filing said notice and demand, at public auction for cash, at any proper place designated in the notice of sale. Out of the proceeds of said sale, the Public Trustee shall retain or pay first all fees, charges and costs and all moneys advanced for taxes, insurance and assessments, or on any prior

encumbrance, with interest thereon and pay the principal and interest due on said Promissory Note, rendering the overplus, if any, unto the Grantor; and after the expiration of the time of redemption, the Public Trustee shall execute and deliver to the purchaser a deed to the Pledged Property sold. The Beneficiary may purchase said Pledged Property or any part thereof at such sale.

The Grantor covenants that at the time of the delivery of these presents, it is well seized of the Pledged Property in fee simple, and has full power and lawful authority to grant, bargain, sell and convey the same in the manner and form as aforesaid. The Grantor fully waives and releases all rights and claims it may have in or to said Pledged Property as a Homestead Exemption or other exemption, now or hereafter provided by law. The Grantor further covenants that the Pledged Property is free and clear of all liens and encumbrances whatever and that the Grantor shall warrant and forever defend the Pledged Property in the quiet and peaceable possession of the Public Trustee, its successors and assigns, against all and every person or persons lawfully claiming or to claim the whole or any part thereof.

Until payment in full of the indebtedness, the Grantor shall timely pay all taxes and assessments levied on the Pledged Property; any and all amounts due on account of the principal and interest or other sums on any senior encumbrances, if any; and will keep the Pledged Property insured in accordance with the requirements of the Loan Contract. In the event of the sale or transfer of the Pledged Property, the Beneficiary, at its option, may declare the entire balance of the note immediately due and payable.

In case of default in any of said payments of the principal or interest, according to the terms of said Promissory Note or Loan Contract, by the Grantor, its successors or assigns, then said principal sum hereby secured, and interest thereon, may at once, at the option of the Beneficiary, become due and payable, and the said Pledged Property be sold in the manner and with the same effect as if said indebtedness had matured, and that if foreclosure be made by the Public Trustee, an attorney's fee in a reasonable amount for services in the supervision of said foreclosure proceedings shall be allowed by the Public Trustee as a part of the cost of foreclosure, and if foreclosure be made through the courts a reasonable attorney's fee shall be taxed by the court as a part of the cost of such foreclosure proceedings.

It is further understood and agreed, that if a release or a partial release of this Deed of Trust is required, the Grantor, its successors or assigns will pay the expense thereof; that all the covenants and agreements contained herein and in the Promissory Note and Loan Contract shall extend to and be binding upon the successors or assigns of the respective parties hereto; and that the singular number shall include the plural, the plural the singular, and the use of any gender shall be applicable to all genders.

[THE REST OF THIS PAGE INTENTIONALLY LEFT BLANK]

Executed the day and date first written above.

Grantor:

By:

Signature

Name:

Title:

Date:

Attest:

By

Signature

Name

Title

Date

**Notary Required**

State of Colorado )

County of Weld )

ss.

The foregoing instrument was acknowledged before me on Sept. 14, 2023, by

Scott R. Cockroft (Name) as President (Title) and

Bradley A. Cockroft (Name) as V. President (Title) of the Ogilvy Augmentation Company

(Borrower). Witness my hand and official seal.

Notary Public Signature

My commission expires 1/15/27

(SEAL)

DOUGLAS C. SEELY

NOTARY PUBLIC

STATE OF COLORADO

NOTARY ID 20054027261

MY COMMISSION EXPIRES JANUARY 15, 2027

(Colorado Water Conservation Board will record the Deed of Trust with the County)



## Appendix 7, Stock Assignment

For value received, the Ogilvy Augmentation Company hereby sells, assigns and transfers six (6) shares of stock in the Greeley Irrigation Company unto the Colorado Water Conservation Board, which stock is standing in the name of the undersigned on the books and records of the Ogilvy Augmentation Company. The Ogilvy Augmentation Company shall pledge as collateral, for this loan, the certificate(s) for the shares, represented by #3379, #3380 #3381, #3382 issued in both the Borrower's and the CWCB's names. The certificates for the shares are in the physical custody of the State Treasurer's Office. The Ogilvy Augmentation Company shall retain both the responsibility for paying assessments on and the privilege of voting said shares.

This Stock Assignment shall be effective solely in the event of an issuance by a Colorado District Court of an order authorizing a foreclosure sale of said shares of stock pursuant to Rule 120 of the Colorado Rules of Civil Procedure.

Ogilvy Augmentation Company

By

Signature

Name

Title

Date

Attest:

By

Signature

Name

Title

Date

## Appendix 4

### **Resolutions of the Board of Directors of the Ogilvy Augmentation Company**

The Board of Directors of Ogilvy Augmentation Company (Company or other entity), at a meeting held on September 14, 2023, in Greeley, Colorado, adopted the following resolution concerning a secured loan from the State of Colorado Water Conservation Board (CWCB), for the purpose set forth in CWCB Loan Contract No. CMS 180907, CT2023-2004, in an amount not to exceed \$1,140,290.00, which includes the CWCB Origination Fee of one percent (1%) of the Base Loan Amount.

At said meeting, the Board charged that these resolutions are irrevocable during the term of the loan and, pursuant to the Company's bylaws, authorized the President and Corporate Secretary, **RESOLVED** as follows.

1. to enter into and comply with the terms of a contract with the Colorado Water Conservation Board for a loan in an amount not to exceed \$1,140,290.00, as needed to finance the project costs, including the CWCB Origination Fee of one percent (1%), and
2. to levy and collect assessments from the shareholders in an amount sufficient to pay the annual amounts due under the Contract, and to pledge assessment revenues and the Company's right to receive said revenues for repayment of the loan, and
3. to make the annual payments required by the Promissory Note and to make annual deposits to a debt service reserve fund, and
4. to make (i) an irrevocable (but not exclusive) pledge to the CWCB of the pledged revenues in such amount as is necessary to make each annual payment due under this Loan Contract; (ii) an assessment covenant, (iii) and a 20% of ownership and storage in Loloff Reservoir, pipeline connecting the Loloff Reservoir to the Ogilvy Ditch, a pipe discharge structure in the reservoir, and (iiii) six shares of Greeley Irrigation Company stock, and
5. to execute all documents as required by the Contract, including, but not limited to, a Promissory Note, and Security Agreement necessary to convey a security interest in said property to the CWCB, and
6. to take such other actions and to execute such other documents as may be necessary to consummate and implement the loan.

### **CERTIFICATION**

The undersigned, the President and the Corporate Secretary hereby certify that the foregoing are true and correct copies of resolutions duly adopted at a meeting of the Company's Board of Directors duly called and held as above recited, pursuant to the Company's bylaws, and that said resolutions have not been amended or rescinded.

Given under our hands and the seal of the Company this 14th day of September 2023.

By: Scott R. Cockroft  
Signature

Name: Scott R. Cockroft

Title: President

Date: 9-14-2023

ATTEST:

By: Vinica Davidson  
Signature

Name: Vinica Davidson

Title: Secretary

Date: 9-14-2023

**Certificate Of Completion**

Envelope Id: 9659DD1BEF8F4854B9715A932D7802D5

Status: Completed

Subject: DNR Pre-Review/Approval: CMS 180907 Ogilvy Augmentation Company/Loloff Res Acquisition CT2024-2004

Source Envelope:

Document Pages: 35

Signatures: 2

Envelope Originator:

Certificate Pages: 5

Initials: 1

Kaylee Salazar

AutoNav: Enabled

kaylee.salazar@state.co.us

Envelope Stamping: Enabled

IP Address: 165.127.23.2

Time Zone: (UTC-07:00) Mountain Time (US &amp; Canada)

**Record Tracking**

Status: Original

Holder: Kaylee Salazar

Location: DocuSign

9/26/2023 12:52:37 PM

kaylee.salazar@state.co.us

Security Appliance Status: Connected

Pool: FedRamp

Storage Appliance Status: Connected

Pool: DNR

Location: DocuSign

**Signer Events****Signature****Timestamp**

DNR PRE-REVIEW

**Completed**

Sent: 9/26/2023 1:16:05 PM

dnr\_edo\_reviewcontract@state.co.us

Viewed: 9/28/2023 2:00:12 PM

DNR

Signed: 9/28/2023 2:00:17 PM

Security Level: Email, Account Authentication  
(None)

Using IP Address: 165.127.23.2

**Electronic Record and Signature Disclosure:**  
Not Offered via DocuSign

Scott Cockroft



Sent: 9/28/2023 2:00:19 PM

srccockroft@gmail.com

Resent: 9/28/2023 2:24:13 PM

Security Level: Email, Account Authentication  
(None)

Viewed: 9/29/2023 8:48:31 AM

Signed: 9/29/2023 8:51:22 AM

Signature Adoption: Drawn on Device

Using IP Address: 174.234.2.211

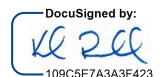
Signed using mobile

**Electronic Record and Signature Disclosure:**

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ID: 1ba042d5-1e91-47d3-9766-364b1aeb8f0c

Kirk Russell



Sent: 9/29/2023 8:51:24 AM

kirk.russell@state.co.us

Viewed: 10/3/2023 8:57:47 AM

CWCB, Finance Section Chief

Signed: 10/3/2023 9:56:59 AM

Security Level: Email, Account Authentication  
(None)

Signature Adoption: Uploaded Signature Image

Using IP Address: 71.56.220.84

**Electronic Record and Signature Disclosure:**

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ID: c6d94616-dc2f-49d8-a8a1-6459eeda0ce0

Kaylee Salazar

**Completed**

Sent: 10/3/2023 9:57:02 AM

kaylee.salazar@state.co.us

Viewed: 10/3/2023 9:59:06 AM

Security Level: Email, Account Authentication  
(None)



Signed: 10/3/2023 9:59:10 AM

Using IP Address: 108.147.94.69

Signed using mobile

**Electronic Record and Signature Disclosure:**

Not Offered via DocuSign

Signer Events	Signature	Timestamp
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Agent Delivery Events	Status	Timestamp
Intermediary Delivery Events	Status	Timestamp
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Carbon Copy Events	Status	Timestamp
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Signing Complete	Security Checked	10/4/2023 4:51:06 PM
Completed	Security Checked	10/4/2023 4:51:08 PM
Payment Events	Status	Timestamps
Electronic Record and Signature Disclosure		

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### **Getting paper copies**

At any time, you may request from us a paper copy of any record provided or made available electronically to you by us. You will have the ability to download and print documents we send to you through the DocuSign system during and immediately after the signing session and, if you elect to create a DocuSign account, you may access the documents for a limited period of time (usually 30 days) after such documents are first sent to you. After such time, if you wish for us to send you paper copies of any such documents from our office to you, you will be charged a \$0.00 per-page fee. You may request delivery of such paper copies from us by following the procedure described below.

### **Withdrawing your consent**

If you decide to receive notices and disclosures from us electronically, you may at any time change your mind and tell us that thereafter you want to receive required notices and disclosures only in paper format. How you must inform us of your decision to receive future notices and disclosure in paper format and withdraw your consent to receive notices and disclosures electronically is described below.

### **Consequences of changing your mind**

If you elect to receive required notices and disclosures only in paper format, it will slow the speed at which we can complete certain steps in transactions with you and delivering services to you because we will need first to send the required notices or disclosures to you in paper format, and then wait until we receive back from you your acknowledgment of your receipt of such paper notices or disclosures. Further, you will no longer be able to use the DocuSign system to receive required notices and consents electronically from us or to sign electronically documents from us.

### **All notices and disclosures will be sent to you electronically**

Unless you tell us otherwise in accordance with the procedures described herein, we will provide electronically to you through the DocuSign system all required notices, disclosures, authorizations, acknowledgements, and other documents that are required to be provided or made available to you during the course of our relationship with you. To reduce the chance of you inadvertently not receiving any notice or disclosure, we prefer to provide all of the required notices and disclosures to you by the same method and to the same address that you have given us. Thus, you can receive all the disclosures and notices electronically or in paper format through the paper mail delivery system. If you do not agree with this process, please let us know as described below. Please also see the paragraph immediately above that describes the consequences of your electing not to receive delivery of the notices and disclosures electronically from us.

#### **How to contact DNR:**

You may contact us to let us know of your changes as to how we may contact you electronically, to request paper copies of certain information from us, and to withdraw your prior consent to receive notices and disclosures electronically as follows:

To contact us by email send messages to: [lilo.santos@state.co.us](mailto:lilo.santos@state.co.us)

#### **To advise DNR of your new email address**

To let us know of a change in your email address where we should send notices and disclosures electronically to you, you must send an email message to us at [lilo.santos@state.co.us](mailto:lilo.santos@state.co.us) and in the body of such request you must state: your previous email address, your new email address. We do not require any other information from you to change your email address.

If you created a DocuSign account, you may update it with your new email address through your account preferences.

#### **To request paper copies from DNR**

To request delivery from us of paper copies of the notices and disclosures previously provided by us to you electronically, you must send us an email to [lilo.santos@state.co.us](mailto:lilo.santos@state.co.us) and in the body of such request you must state your email address, full name, mailing address, and telephone number. We will bill you for any fees at that time, if any.

#### **To withdraw your consent with DNR**

To inform us that you no longer wish to receive future notices and disclosures in electronic format you may:

- i. decline to sign a document from within your signing session, and on the subsequent page, select the check-box indicating you wish to withdraw your consent, or you may;
- ii. send us an email to [lilo.santos@state.co.us](mailto:lilo.santos@state.co.us) and in the body of such request you must state your email, full name, mailing address, and telephone number. We do not need any other information from you to withdraw consent.. The consequences of your withdrawing consent for online documents will be that transactions may take a longer time to process..

### **Required hardware and software**

The minimum system requirements for using the DocuSign system may change over time. The current system requirements are found here: <https://support.docusign.com/guides/signer-guide-signing-system-requirements>.

### **Acknowledging your access and consent to receive and sign documents electronically**

To confirm to us that you can access this information electronically, which will be similar to other electronic notices and disclosures that we will provide to you, please confirm that you have read this ERSD, and (i) that you are able to print on paper or electronically save this ERSD for your future reference and access; or (ii) that you are able to email this ERSD to an email address where you will be able to print on paper or save it for your future reference and access. Further, if you consent to receiving notices and disclosures exclusively in electronic format as described herein, then select the check-box next to 'I agree to use electronic records and signatures' before clicking 'CONTINUE' within the DocuSign system.

By selecting the check-box next to 'I agree to use electronic records and signatures', you confirm that:

- You can access and read this Electronic Record and Signature Disclosure; and
- You can print on paper this Electronic Record and Signature Disclosure, or save or send this Electronic Record and Disclosure to a location where you can print it, for future reference and access; and
- Until or unless you notify DNR as described above, you consent to receive exclusively through electronic means all notices, disclosures, authorizations, acknowledgements, and other documents that are required to be provided or made available to you by DNR during the course of your relationship with DNR.